

Radosevich, Steven D.

From: 101 Help-TC2100
Sent: Monday, April 03, 2006 7:43 AM
To: Radosevich, Steven D.
Subject: RE: 10/806485

I agree that the "tool" of claim 1 appears to be solely software (functional descriptive material, per se). Claim 7 appears to resolve the deficiency and confirms the appearance. The other dependent claims that recite hardware are for use with the tool, not part of the tool. BTW, check MPEP 6708.01(n) under II. to see if some of the other dependent claims are proper or if they fail to further limit their parent claim and should be objected to. If the "means" of claim 13 would reasonably be interpreted under 112, 6th, by one of ordinary skill in the art as just the software component, claim 13 would also be directed to software, per se.

Claim 14 is worse. An "electronic representation" appears to be just data, non-functional descriptive material, per se. If Applicant is attempting to claim a data structure, the claim would need to be amended in a manner which clearly meets the IEEE definition of a data structure and would need to include an appropriate computer readable medium with which the data structure is functionally interrelated so as to act as a computer component before it would become statutory.

If the "generator" and "means" of claim 16 are reasonably interpreted as just software, it too would be software, per se, like claims 1 and 13.

For claims 1 and 17-20, if "creating" actually brings the model into existence, that's a tangible result. If it's just the planning or would otherwise equate to just a thought or a computation within a processor and not actually producing the model, they would lack a tangible result. I don't see any other potential problems with claims 17-20. Claim 21 seems to produce a useful, concrete and tangible result (if "capturing" is equivalent to "recording" in the context of this application).

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-----Original Message-----

From: Radosevich, Steven D.
Sent: Friday, March 31, 2006 1:44 PM
To: 101 Help-TC2100
Subject: 10/806485

Examiners questions: Is a 101 rejection applicable to application's independent claims (1,13,14,16, 17, 19, and 21) since it is believed they are related to only computer code without any means for execution of the code or storage medium on which the code is stored? Examiner interprets that the "mean" in claims 13 and 16 along with the "electronic representation" in claim 14 are identical to the code(s) of claim 1. Claims 17, 19, and 21 in light of the interpretation of claims 1, 13, 14, and 16 are interpreted to relate to only code(s) per say... It does not appear to the examiner that the dependent claims reconcile the independent claims lack of means plus function. Any help and confirmation by the TC-2100 Help panel as how to proceed with the claims of this case (10/806485) would greatly be appreciated. Thank you for your time.

Steven D. Radosevich

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